

SENATE BILL REPORT

SB 6800

As Reported By Senate Committee On:
Transportation, February 11, 2008

Title: An act relating to the disposition of publicly owned railroad infrastructure.

Brief Description: Concerning the disposition of publicly owned railroad infrastructure.

Sponsors: Senators Hobbs, Oemig and Haugen.

Brief History:

Committee Activity: Transportation: 2/6/08, 2/11/08 [DPS, DNP].

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 6800 be substituted therefor, and the substitute bill do pass.

Signed by Senators Haugen, Chair; Marr, Vice Chair; Murray, Vice Chair; Swecker, Ranking Minority Member; Berkey, Eide, Jacobsen, Kastama, Kauffman, Kilmer, Pflug, Sheldon and Spanel.

Minority Report: Do not pass.

Signed by Senators Benton, Delvin, Holmquist and King.

Staff: Dory Nicpon (786-7321)

Background: Under federal law, the Surface Transportation Board (STB) regulates many railroad issues. The STB has preemptive jurisdiction over many railroad rate and service issues, and rail restructuring transactions (mergers, line sales, line construction, and line abandonment). A state may only regulate rail line abandonments or sales that either are not subject to federal jurisdiction, or do not interfere with interstate rail operations.

The Department of Transportation must implement a state rail plan according to specified priorities, which include the preservation of rail corridors.

Under current law, local governments receive distributions from taxes collected on the sale of motor fuel (the gas tax), and certain special districts may impose property taxes and special assessments.

Summary of Bill (Recommended Substitute): A local government, port district, rail district or other special district may not remove or disassemble railroad infrastructure except: 1) to comply with statutory obligations; 2) if the removal or disassembly is incident to a fully funded plan to realign or improve the railroad infrastructure within five years; 3) to remove

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unused rail infrastructure incident to legislatively authorized capital construction; or 4) with prior legislative approval.

A local government, port district, rail district or other special district may not sell, transfer or dispose of railroad infrastructure except: 1) to a local government, port district, rail district, or special district; 2) pursuant to an interlocal agreement for the sustained use of the infrastructure; 3) incident to legislatively authorized capital construction; or 4) with prior legislative approval.

The Department of Transportation must determine the replacement cost of any railroad infrastructure that is impermissibly removed or transferred. The local government, port district, rail district or other special district that impermissibly removed or transferred the railroad infrastructure must pay a monetary penalty equal to double the replacement cost of the railroad infrastructure. The penalty is deposited into the transportation infrastructure account and may be used only to fund rail capital improvements.

The specified removal and sale restrictions apply to railroad infrastructure that is not subject to the jurisdiction of the STB, or for which state regulation does not interfere with interstate rail operations.

EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE (Recommended Substitute): The exemption that allowed removal of railroad infrastructure "to immediately improve or realign" the infrastructure is changed to allow removal "if the removal or disassembly is incident to a fully funded plan to realign or improve the railroad infrastructure within five years." An exemption is added to allow removal or transfer of railroad infrastructure that is "incident to legislatively authorized capital construction."

The penalties for impermissibly removing or transferring railroad infrastructure are changed. The original bill suspended for ten years the taxing authority of any port district, rail district or other special district that impermissibly removed or transferred railroad infrastructure, and suspended for ten years the gas tax distributions of any local government that impermissibly removed or transferred railroad infrastructure. The proposed substitute requires a local government, port district, rail district or special district that impermissibly removes or transfers railroad infrastructure to pay a monetary penalty equal to double the replacement costs of the railroad infrastructure removed or transferred.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: Preservation of rail infrastructure is critical to maintaining transportation options, particularly with the prohibitive expense associated with constructing new rail infrastructure. Once lost, rail infrastructure is nearly impossible to replace. Any decisions about the removal of rail infrastructure should be made through a very deliberate process.

CON: Constraining the future use of rail infrastructure may have the effect of devaluing rail property that a mainline railroad company contemplates selling to a local entity.

OTHER: The preservation of rail infrastructure is an important objective. Once lost essential rail corridors almost never return to service, so this bill is good public policy. However, legislative approval may not be a sufficiently nimble means of obtaining approval to remove or sell track, and the bill may undermine a locally established process for public input regarding the best use of rail corridors, contain unintentionally restrictive language, and be too punitive rather than incentive-based.

Persons Testifying: PRO: Senator Steve Hobbs, prime sponsor; Lew McMurrin, Washington Software Alliance; Lloyd H. Flem, All Aboard Washington.

CON: Bill Stauffacher, Burlington Northern Santa Fe Railway.

OTHER: Robert Mack, City of Tacoma; Henry Yates, Port of Seattle; Rick Wickman, Port of Vancouver; Pat Jones, Washington Public Port Association; Sean Eagan, Port of Tacoma.